IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4667 of 1996

Between:

Primary Agricultural Cooperative Society, Denkonda, Rep., by its Secretary V.Anand Rao, S/o. Rama Rao, R/o. Denkonda, Vizianagaram District.

..... PETITIONER

AND

1 Principal District Munsif-cum-Coop.Tribunal,
Vizianagaram.

2 Deputy Registrar of Cooperative Societies,
Vizianagaram.

3 Sri K.S.D.S.Prasad, S/o. K.V.Avatharam
Agraharam Street, Kasimkota,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly in the nature of Writ of Certiorari or any other appropriate writ or order or direction by calling upon the records of the 1st respondent in CTA.No. 4/86 dt.12.12.94 and quash the same and remand the case for re-enquiry by the 2nd respondent, and pass such further or other orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR. S. NARASIMHA RAO

Counsel for Respondents 1 and 2: G.P. for Cooperation.

Counsel for Respondent No.3: Mr. T.V. Narasimha Murti.

The Court made the following:

O R D E R:

The petitioner, which is the Society, seeks to assail the order dated 12-12-1994 passed in C.T.A.No.4 of 1986 filed under Section 76(1) of the Andhra Pradesh Cooperative Societies Act, 1964, (hereinafter referred to as 'the Act') as against the orders of surcharge under Section 60 of the Act.

Admittedly the third respondent is an agriculturist and against whom the aforesaid surcharge proceedings have been initiated on finding that he was liable to pay certain amounts to the Society. Aggrieved, the third respondent preferred an appeal before the first respondent. The first respondent allowed the appeal on the ground that the copy of the inspection report was not supplied to the third respondent before issuing surcharge proceedings. Against the said order, the petitioner preferred the present writ petition.

The only ground urged in this writ petition is that having regard to the fact that the appellate powers of the first respondent have already been taken away and a Special Tribunal has already been constituted as per Section 75 of the Act, the first respondent ought

not to have taken up the proceedings and disposed of the same on merits since it has no jurisdiction as on that day.

It is not in dispute that the Special Tribunal has been constituted for the purpose of disposal of the appeals preferred under the Act. Even as on the date of disposal of the appeal preferred by the third respondent, the Special Tribunal was functioning. In view of the same, there is no reason as to why the appellate proceedings were not sent to that Tribunal. In the circumstances, the first respondent has neither jurisdiction nor power to take up the said proceedings.

Accordingly, the order dated 12-12-1994 in C.T.A.No.4 of 1986 is hereby set aside and the writ petition is allowed. The matter is remitted back to the Co-operative Tribunal, Vijayawada and the first respondent is directed to transfer the case accordingly. On such transfer, the Tribunal at Vijayawada shall dispose of the same within a period of three months thereafter, after giving notice and opportunity to both sides. No costs.

(**B. PRAKASH RAO, J**)

Date: 23-11-2004

ghn

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Twenty third day of November Two Thousand and Four.

To

1 Principal District Munsif-cum-Coop.Tribunal,
Vizianagaram.

2 Deputy Registrar of Cooperative Societies,
Vizianagaram.

3 Two CCs to the Government Pleader for Cooperation, High Court of A.P.,
Hyderabad (O.U.T.)

4 Two CD copies.